

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of Schools and Libraries
Universal Service Support Mechanism

CC Docket No. 02-6

**REPLY COMMENTS
OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

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April 19, 2010

I. INTRODUCTION

The California Public Utilities Commission and the People of the State of California (CPUC or California) submit these Reply Comments in response to comments filed in the Federal Communications Commission's (FCC or Commission) Order and Notice of Proposed Rulemaking (NPRM) released February 19, 2010.¹

Current FCC rules require schools to certify that they will use E-rate funded services *solely* for educational purposes. In the Order noted above, the FCC temporarily waived this rule through the close of funding year 2010 (ending June 30, 2011) to permit schools that receive funding from the E-rate program to allow members of the general public to use the schools' Internet access during non-operating hours at the schools' discretion for purposes such as job searches and applications, digital literacy programs, and online access to governmental services and resources. The FCC imposed certain conditions on community use under the waiver and tentatively concluded that those conditions should continue if the change were made permanent. The waiver is subject to the following conditions: "(1) schools participating in the E-rate program are not permitted to request more services than are necessary for 'educational purposes'; (2) any community use of E-rate funded services at a school facility is limited to non-operating hours, such as after school hours or during times when the students are out of school; and (3) consistent with the Communications Act of 1934, as amended by the Telecommunications Act of 1996

¹ *In the Matter of Schools and Libraries Universal Service Support Mechanism*, Order and Notice of Proposed Rulemaking, CC Docket No. 02-6, rel. February 19, 2010 (Order and NPRM).

(the Act), schools' discounted services or network capacity may not be 'sold, resold, or transferred by such user in consideration for money or any other thing of value.' ”²

In the NPRM, the FCC seeks comment on whether to permanently revise the rules to enable schools to allow use of services and equipment funded under the E-rate program by the community during non-operating school hours. It also seeks comment on conditions that should be established to guard against potential additional costs being imposed on the E-rate program and to reduce the likelihood of waste, fraud, and abuse.

II. DISCUSSION

The CPUC here responds to the Comments of the State E-Rate Coordinators Alliance (SECA) and the Comments of Sprint Nextel Corporation (Sprint). SECA encourages the FCC to convert the waiver to a permanent rule,³ and Sprint recommends that the Commission allow E-rate eligible users to use E-rate services from locations other than the school campus.⁴

California supports the temporary waiver enabling schools to allow members of the general public to use the schools' internet access during non-operating hours, at the schools' discretion. We also support the limitation on E-rate funding to insure that the changes are revenue-neutral. However, we oppose SECA's recommendation to adopt the new program rules on a permanent basis because there are program implementation details that still need to be fleshed out for a permanent program (i.e. what works on a

² Order at ¶3.

³ Comments of State E-Rate Coordinators Alliance at p 3.

⁴ Comments of Sprint Nextel Corporation at p. 3

temporary basis does not necessarily work on a permanent basis). The FCC should evaluate the experience gained from the temporary waiver before deciding whether to permanently amend its rules.

Sprint recommends that, in addition to allowing schools to make E-rate services available to the general public, the Commission also broaden its definition of "eligible locations" to allow students, teachers, school administrators and other E-rate eligible users to use E-rate services from locations other than the school campus and, in certain instances, school buses. Sprint says that to the extent that an eligible user is using an E-rate service for eligible purposes, the user should be allowed to use that service from any location under the same terms as if the person were sitting in a classroom.⁵

The CPUC disagrees with this proposal if Sprint is suggesting it apply to general public use for non-educational purposes. The CPUC also urges caution in applying this approach to E-rate eligible users for educational purposes. Permitting off-campus use opens the door to waste, fraud and abuse. Keeping all services supported through the E-rate program onsite in schools will help insure that the program is used only for the purposes intended.

III. CONCLUSION

The CPUC supports the temporary waiver, the optional nature of the program, and keeping the waiver revenue-neutral. However, we do not support adoption of the public use waiver as a permanent change to the program at this time. The FCC should first

⁵ Comments of Sprint Nextel Corporation, *In the Matter of Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, April 5, 2010, p 3.

evaluate the results under the temporary waiver before making such a decision. Nor does California support Sprint's proposal to permit off-site use of the E-rate funded facilities until the impact of onsite access can be evaluated.

Respectfully submitted,

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